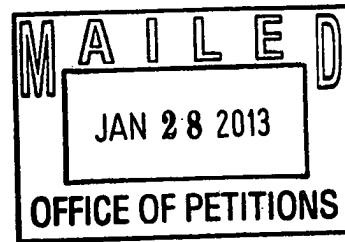




UNITED STATES PATENT AND TRADEMARK OFFICE

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Nebiat Getachew
1358 Portsmouth Court
Carol Stream, Illinois 60188



In re Patent No. 6,382,452
Issued: May 7, 2002
Application No.: 09/641,852
Filing Date: August 18, 2000
Attorney Docket No. 00 - 0072

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: REQUEST FOR INFORMATION
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This is a request for information in response to the petition under 37 CFR 1.378(c), filed October 1, 2012, to reinstate the above-cited patent. The petition is being treated as petition under 37 CFR 1.378(b)¹.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petitions under 37 CFR 1.378(b) previously filed. No additional fees are due.

The patent issued May 7, 2002. The 7.5 year maintenance fee could have been paid from May 7, 2009, through November 7, 2009, or with a surcharge as authorized by 37 CFR 1.20(h), during the period from November 8, 2009, to May 7, 2010. Petitioner did not do so. Accordingly, the patent expired at midnight May 7, 2010.

Petitioner is required to address the following points:

- Certainly, financial hardship of the parties responsible for paying the maintenance fees may be a cause for unavoidable delay, however; petitioner must establish that such financial hardship endured during the entire relevant period—that period being from May 7, 2010, through May 5, 2012. It is noted that there are three patentees of the subject patent. Petitioner has not indicated who was primarily responsible for paying the maintenance fee. Notwithstanding, in proving such financial hardship, the petitioner must provide documentary evidence showing the financial

¹ A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be filed with **twenty-four months** after the expiration of the six month grace period provided in 37 CFR 1.362(e) and be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). The petition was not filed within the twenty-four months period following the expiration of the patent. This period expired at midnight on May 7, 2012. The twenty-four month period for filing a petition under 37 CFR 1.378(c) is a statutory requirement and cannot be waived or suspended. Accordingly, the instant petition is being treated as a petition under 37 CFR 1.378(b) as the petition first filed May 5, 2012, was filed pursuant to 37 CFR 1.378(b), and petitioner did remit the surcharge of \$1,640.00 that is required to accompany a grantable petition under 37 CFR 1.378(c) before the expiration of the statutorily set twenty-four month period in which to file a petition under 37 CFR 1.378(c).

resources of patentees, i.e., savings accounts, real estate, stocks, as well as the liabilities that patentees faced during that same period. It is not sufficient to state that financial hardship occurred; petitioner must establish that said hardship existed for all relevant parties through documentary evidence, i.e., tax records, bank statements, copies of judgments, bankruptcy orders, etc. Petitioner must redact personal information and identifiers, i.e., social security numbers and account numbers, from the documentary evidence provided that is not relevant to the instant petition.

- It is noted that petitioner states that Nebiat Getachew suffers from many illnesses and that some documentation has been provided to this effect. The documentation provided does not appear to speak directly to the relevant period—May 7, 2010, until May 2012. Certainly ill health can be a considered unavoidable delay; however, petitioner must provide documentary evidence of petitioner's ill health that coincides with the relevant period of delay. Such would include medical records and/or statements from the treating physician documenting the time frame and severity of petitioner's illness. Petitioner is cautioned to be redact all personal identifiers such as, social security numbers and account numbers as these papers may be viewable to the public.
- A successful petition under 37 CFR 1.378(b) must affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees.
- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee

- Petitioner must describe when petitioner became aware that the patent was expired and the steps petitioner took to reinstate the patent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450

Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions